

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PATRICIA BROWN,

Plaintiff,

vs.

CAROLYN W. COLVIN,
ACTING COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,

Defendant.

Case No. 2:14-cv-00616-JAD-CWH

FINDINGS AND RECOMMENDATION

Plaintiff submitted a Motion/Application for Leave to Proceed *In Forma Pauperis* (#1) on April 22, 2014. On April 23, 2014, the Court granted Plaintiff's Motion/Application for Leave to Proceed *In Forma Pauperis* (#1) and ordered the Clerk to file Plaintiff's Complaint (#1-2). See Order #2. In addition, the Court ordered that the Complaint (#3) be dismissed without prejudice and granted Plaintiff thirty (30) days to file an amended complaint correcting the noted deficiencies.

Plaintiff did not adequately allege that she exhausted her administrative remedies. Plaintiff included an unfavorable decision by an administrative law judge dated August 27, 2013 and a letter she wrote to the Appeals Counsel along with her Complaint. However, Plaintiff failed to include the Appeals Counsel's decision. Accordingly, the Court is unable to find that Plaintiff has exhausted her administrative remedies or that this action was timely commenced. Further, Plaintiff's Complaint fails to include sufficient facts to state a claim for relief. More than thirty (30) days have elapsed since the Court's Order dismissing Plaintiff's Complaint without prejudice and Plaintiff has not submitted an amended complaint with sufficient facts to state a plausible claim for relief in this case.

Based on the foregoing and good cause appearing therefore,

RECOMMENDATION

IT IS HEREBY RECOMMENDED that Plaintiff's Complaint (#3) be dismissed with

1 prejudice and this action be closed because Plaintiff failed to file an amended complaint within 30 days
2 of the Court's April 23, 2014 Order.

3 **NOTICE**

4 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
5 writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held
6 that the courts of appeal may determine that an appeal has been waived due to the failure to file
7 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also
8 held that (1) failure to file objections within the specified time and (2) failure to properly address and
9 brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual
10 issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt*
11 *v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

12 DATED the 9th day of June, 2014.

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15 **C.W. Hoffman, Jr.**
16 **United States Magistrate Judge**
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